

DOCKET NO. 2003.07.013.WS0
CUSTOMER NO.: 23990

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : William J. Semper, et al.
Serial No. : 10/620,402
Filed : July 16, 2003
For : SYSTEM AND METHOD FOR CONTROLLING
QUALITY OF SERVICE IN A WIRELESS NETWORK
Group No. : 2617
Examiner : Michael T. Vu
Confirmation No. : 2926

MAIL STOP AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal. The review is requested for the reason(s) stated in the arguments below, demonstrating the clear legal and factual deficiency of the rejections of some or all claims.

Claims 1-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0114305 to *Oyama, et al.*, hereinafter "Oyama" in view of U.S. Patent

Publication No. 2001/0012777 to *Igarashi*, hereinafter “2001/0012777”. Claims 8-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2003/0137944 to *Medvinsky*, hereinafter “Medvinsky” in view of Oyama. For the convenience of the Panel, claim 1 requires:

1. For use in a wireless network, a method of providing quality-of-service (QoS) functions to a mobile station accessing the wireless network, the method comprising the steps of:
 - receiving from the mobile station a packet data call initiation signal;
 - sending an authorization request corresponding to the mobile station;
 - receiving an authorization message and quality-of-service profile corresponding to the mobile station according to a level of service authorized for the mobile station;
 - receiving application information corresponding to the mobile station; and
 - determining quality-of-service parameters according to the quality-of-service profile and the application information, wherein the mobile station thereafter communicates according to the quality-of-service parameters.

With regard to claim 1 and its dependent claims, and as described in the previous response, one way in which Oyama differs from the features of claim 1 is that Oyama’s quality of service (QoS) profile does not appear to *correspond to any mobile station*. Rather, Oyama teaches a “pre-established” signaling QoS profile that appears to have no particular association with any mobile station. No QoS profile corresponding to the mobile station appears to be ever received in Oyama. The Examiner correctly notes that Oyama describes QoS classes in general, but these do not correspond to any particular mobile station, as claimed.

The Examiner concedes that Oyama does not teach *receiving an authorization message and quality-of-service profile corresponding to the mobile station*, as claimed, and alleges that Igarashi teaches receiving an authorization message corresponding to the mobile station in paragraphs 0014-0017. These paragraphs do not describe an authorization message at all, and certainly not one that corresponds to a mobile station – these paragraphs describe a hardware architecture and a method, and reference an authenticating unit authenticating the correspondent terminal, but not how this is performed.

Igarashi does describe, in paragraph 0088, a message that authenticates *an access of the Correspondent Node 25* (also referred to as a “correspondent terminal”), which is a node with which a mobile terminal communicates, not a mobile terminal itself. There does not appear to be any authorization of a mobile terminal, as claimed (noting that Igarashi uses the terms “Mobile Node” or “MN”), or any authorization message that *corresponds to* the mobile terminal.

Igarashi similarly does not teach any QoS profile that corresponds to the mobile station, as claimed. Certainly, Igarashi’s background paragraph 0007 acknowledges that QoS considerations exist, but does not teach a QoS profile corresponding to the mobile station. Paragraphs 0060-0068 generally refer to a service profile of a *user* – but that service profile is not taught as being a QoS profile, and is taught as corresponding to a *user*, not a mobile terminal as claimed.

It is clear that the Examiner’s newly cited art, Igarashi, still does not teach the claim limitations of claim 1 and its dependent claims.

Moreover, claim 1 was amended in the previous response to require receiving an authorization message and quality-of-service profile corresponding to the mobile station according

to a level of service authorized for the mobile station. This is not taught by any reference, alone or in any combination, and the Examiner does not even address this limitation in his final rejection. As such, there is no *prima facie* rejection of these claims. These rejections are legally and factually deficient.

With regard to claims 8 and 15, and their respective independent claims, Claims 8 and 15 both require that the QoS controller receives from the authorization server an authorization message and quality-of-service profile corresponding to the mobile station. The Examiner concedes that Medvinsky does not teach a QoS profile corresponding to the mobile station.

As described above with regard to Claim 1, and incorporated here by reference, Oyama also does not teach a QoS profile corresponding to the mobile station. Rather, Oyama teaches a generic “pre-established signaling quality of service profile” that is “pre-established and configured in various nodes in an access network” (see abstract and para. 0043). As such, Oyama’s “pre-established” QoS profile does not correspond to the mobile station, as claimed.

As the Examiner concedes with regard to claim 1 that this limitation is not taught by Oyama, it is difficult to understand why the Examiner states the opposite with regard to these claims. It is clear that no combination of Oyama and Medvinsky (or any other cited art, including Igarashi) teaches or suggests these limitations of the claims.

It is clear that no combination of the cited references teach or suggest the limitations of the independent claims, as each independent claim includes one or more limitations not taught by any art of record. As such, all rejections are legally and factually deficient, and will be reversed on appeal.

CONCLUSION

As a result of the foregoing, the Applicant asserts that the claims in the Application are in condition for allowance over all art of record, and that the rejections are both factually and legally deficient, and respectfully requests this case be returned to the Examiner for allowance or, alternatively, further examination.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

MUNCK CARTER, LLP



Date: 02-27-09

John T. Mockler
Registration No. 39,775

P.O. Drawer 800889
Dallas, Texas 75380
(972) 628-3600 (main number)
(972) 628-3616 (fax)
E-mail: jmockler@munckcarter.com